

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARIAROSARIO CASTELLANOS, as natural
mother and next friend of her children, PABLO
CASTELLANOS and PEDRO CASTELLANOS,

Plaintiffs,

vs.

Civ. No. 00-36 JC/RLP

ROBIN OTTEN, Secretary Designate of the
New Mexico Human Services Department, in
her official capacity; and CIMARRON HEALTH
PLAN, INC., d/b/a CIMAROON SALUD,

Defendants.

MEMORANDUM OPINION AND ORDER

On April 20, 2000, counsel for the parties appeared by telephone for the purpose of a hearing on Defendant Robin Otten's motion for protective order which was served April 19, 2000, and to which a response was served on April 20, 2000. The motion for protective order sought to bar the taking of the deposition of Ross Becker on April 21, 2000. Since Mr. Becker's deposition had been scheduled, Mr. Becker, as acting director of the Medical Assistance Division of the New Mexico Human Services Department, considered Plaintiffs' fair hearing appeal of Defendant Cimarron's denial of residential services to Plaintiff's sons, Pablo and Pedro Castellanos, and rendered a decision in favor of those claimants concluding, based upon the record before him, that out of state residential treatment was medically necessary for the two boys. A hearing is presently scheduled before the Honorable John Edwards Conway, the trial

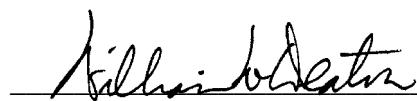
judge in this matter, for May 2, 2000, for the purpose of determining whether such out of state placement was "medically necessary".

Plaintiffs wish to take the deposition of Ross Becker in preparation for the aforementioned hearing before Judge Conway as well as for the preparation of responses to three motions for partial summary judgment which have been served by Defendant Otten. As a result of the ruling in the administrative hearing, Defendant Otten has moved to dismiss or to stay proceedings in this cause. Defendant Otten has indicated that she will withdraw the three motions for partial summary judgment which do not deal with the question of whether notice has to be given to the Plaintiff in grammatically correct Spanish. Since Plaintiff will not have to respond to those three motions, and since it does not appear necessary to have the testimony of Ross Becker to prepare for the hearing, if any, which will be conducted by Judge Conway on May 2, 2000, it is not necessary to take the deposition of Ross Becker at this time.

WHEREFORE,

IT IS ORDERED that Defendant Robin Otten's motion for protective order be, and it is hereby, granted.

IT IS FURTHER ORDERED that the deposition of Ross Becker set for April 21, 2000, be, and it is hereby, vacated.



UNITED STATES MAGISTRATE JUDGE